

SUPREME COURT OF NORTH CAROLINA

State v. Rollins, 363 N.C. 232

675 S.E.2d 334 (2009) · No. No. 138PA08 · Decided May 1, 2009

SUMMARY

The Supreme Court of North Carolina held that conversations between a prisoner and his wife in public visiting areas of Department of Correction facilities were not confidential communications protected by North Carolina's marital communications privilege under N.C.G.S. § 8-57(c). The court concluded that the circumstances did not provide a reasonable expectation of privacy and reversed the Court of Appeals' decision ordering a new trial. The case was remanded for consideration of other assignments of error.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Brady, Justice; Parker, Chief Justice; Hudson, Justice; Timmons-Goodson, Justice
JURISDICTION	North Carolina
DECIDED	May 1, 2009
DOCKET	No. 138PA08
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant pleaded guilty to murder and related offenses after the trial court denied his motion to suppress statements made to his wife during prison visits. He reserved the right to appeal the suppression ruling. The Court of Appeals reversed and remanded for a new trial, and the Supreme Court of North Carolina granted discretionary review.
STANDARD OF REVIEW	The Supreme Court reviewed the legal interpretation and application of the marital communications privilege under N.C.G.S. § 8-57(c), including the trial court's denial of the motion to suppress.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of North Carolina
PARTIES	State of North Carolina v. Mickey Vonrice Rollins

TOPICS

criminal procedure

evidence

privilege

suppression of evidence

statutory interpretation

PRACTICE AREAS

criminal procedure

evidence

privileges

marital communications privilege

suppression of evidence

QUESTIONS PRESENTED

1. Whether conversations between a husband and wife in public visiting areas of Department of Correction facilities are confidential communications protected by N.C.G.S. § 8-57(c).
2. Whether the trial court properly denied Rollins's motion to suppress the statements he made to his wife during the prison visits.

HOLDINGS

1. A confidential marital communication requires a reasonable expectation of privacy and an intent that the communication be kept secret. Relevant factors include the physical location of the communication and whether other individuals were present.
2. Communications occurring during ordinary visits in public visiting areas of Department of Correction facilities are not confidential communications protected by N.C.G.S. § 8-57(c), because the incarcerated spouse has no reasonable expectation of privacy in those circumstances.

KEY QUOTATIONS

“For purposes of a confidential marital communication under subsection 8-57(c), there must be a reasonable expectation of privacy on the part of the holder and the intent that the communication be kept secret.” (363 N.C. at 238)

“However, communications occurring during ordinary DOC visits, in public visiting areas, do not invoke the protection subsection 8-57(c) affords to confidential communications because there is no reasonable expectation of privacy in such communications.” (363 N.C. at 240-41)

FACTUAL BACKGROUND

Mickey Vonrice Rollins was incarcerated for an unrelated crime when his wife, Tolvi Rollins, visited him five times at three North Carolina Department of Correction facilities. The visits occurred in public visiting areas, with other people nearby, and Rollins made incriminating statements about murdering Harriett Highsmith; on three visits, his wife wore a recording device at law enforcement's request. Rollins's wife later reported the conversations to law enforcement, and Rollins moved to suppress the statements under the marital communications privilege.

PROCEDURAL HISTORY

A Martin County grand jury indicted Rollins for murder, first-degree kidnapping, robbery with a dangerous weapon, and breaking or entering. The Superior Court denied his motion to suppress statements obtained during recorded and monitored prison visits and sentenced him to life imprisonment without parole pursuant to a guilty plea. The Court of Appeals reversed, concluding that the marital communications privilege applied; the Supreme

Court reversed the Court of Appeals on that issue and remanded for consideration of the remaining assignments of error.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals was directed to consider defendant's assignments of error that it had not previously addressed.

CASES CITED

- Trammel v. United States, 445 U.S. 40 (1980)
- State v. Freeman, 302 N.C. 591, 276 S.E.2d 450 (1981)
- State v. Holmes, 330 N.C. 826, 412 S.E.2d 660 (1992)
- Hicks v. Hicks, 271 N.C. 204, 155 S.E.2d 799 (1967)
- State v. Wiley, 355 N.C. 592, 565 S.E.2d 22 (2002)
- Bell v. Wolfish, 441 U.S. 520 (1979)
- Hudson v. Palmer, 468 U.S. 517 (1984)
- United States v. Paul, 614 F.2d 115 (6th Cir. 1980)
- Lanza v. New York, 370 U.S. 139 (1962)
- Wolff v. McDonnell, 418 U.S. 539 (1974)
- Whitford v. N. State Life Ins. Co., 163 N.C. 223, 79 S.E. 501 (1913)
- State v. McIntosh, 336 N.C. 517, 444 S.E.2d 438 (1994)
- People v. Von Villas, 11 Cal. App. 4th 175, 15 Cal. Rptr. 2d 112 (1992)
- North v. Superior Court, 8 Cal. 3d 301, 502 P.2d 1305 (1972)
- State v. Jolly, 20 N.C. 108 (1838)
- State v. Rice, 222 N.C. 634, 24 S.E.2d 483 (1943)
- Bent v. Allot, 21 Eng. Rep. 50 (Ch. 1579-80)